IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

MFA.No. 640 of 2000(A)

OPMV.639/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZHA.
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APPELLANT: PETITIONER

V.N.JAYARAJ, SON OF NARAYANAN NAIR,
AGED 29 YEARS RESIDING
VATHYAMADATHIL HOUSE, THRIKKARIYOOR
P.O. AYAKKADU VIA, KOTHAMANGALAM.

BY ADV. SRI.ANIL S.RAJ
SMT.K.N.RAJANI

RESPONDENTS: RESPONDENTS
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1. **XAVIER JOSEPH, SON OF JOSEPH,**
PANACHIYIL HOUSE, AMIKAPURAM.

2. **ASOKAN, SON OF AYYAPPAN,**
MULLONTHOTTAYIL HOUSE,
PAYIPRA KARA, ERAMALLOOR VILLAGE.

3. **THE ORIENTAL INSURANCE CO. LTD.,**
KOTHAMANGALAM.

BY ADV. SRI.M.JACOB MURICKAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 22/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

tss

J.B. KOSHY & K. HEMA, JJ.

M.F.A. No. 640 of 2000

Dated this the 22nd day of October, 2007

JUDGMENT

Koshy, J.

Appellant met with a motor accident by which he sustained serious injuries. He claimed a compensation of Rs.4,80,000/-. The tribunal found that the accident occurred due to the negligent driving of a tractor driven by the second respondent and the tractor was covered by the insurance policy issued by the third respondent insurance company, but, compensation of only only Rs.1,20,000/- was awarded and appellant wanted enhancement of compensation. He claimed that he was getting Rs.2,000/- per month, but, no salary certificate was produced and no evidence was adduced to prove that except the oral evidence. The tribunal assessed Rs.1,500/- as the monthly income and accepted the disability certificate produced and proved by examining PW2 that there is 5% disability and calculated compensation. As a result of the accident, there was right femur fracture and right femur tibia. He had a long treatment followed by physiotherapy. Doctor certified that implants had to be removed. But, for future treatment, no amount was awarded. In the above circumstances, we are of the

opinion that another Rs.5,000/- should be awarded for removal of implants. We are of the opinion that sufficient compensation was granted under other heads. Hence, the above additional amount of Rs.5,000/- should be deposited by the third respondent insurance company with 7.5 % interest from the date of application till the date of deposit over and above the amount decreed by the tribunal. On deposit of the amount, appellant is entitled to withdraw the same.

J.B.KOSHY
JUDGE

K. HEMA
JUDGE

vaa

J.B. KOSHY and
K.HEMA, JJ.

Crl.R.P. No.640/2000

Order

Dated:22nd October, 2007